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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,085	03/16/2004	Robert A. Koch	BS00097CIP1	4042

7590 07/25/2006

Scott P. Zimmerman  
P.O. Box 3822  
Cary, NC 27519

EXAMINER
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GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>	
	10/802,085	KOCH, ROBERT A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gerald Gauthier	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-13 and 15-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6,8-13 and 15-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/24/06</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claim(s) 1-5, 8-12 and 15-21** are rejected under 35 U.S.C. 102(e) as being anticipated by Brisebois et al. (US 6,310,944 B1).

Regarding **claim(s) 1, 9, 21 and 22**, Brisebois discloses a method of providing communications services (FIG. 1 and column 1, lines 38-41), comprising the steps of:

receiving caller identification information identifying a call from an originating party to a receiving party (column 7, lines 26-29);

accessing a database of pre-created text messages, the database storing a pre-created text message having a common association between the receiving party and the originating party (column 7, lines 29-32); and

communicating the pre-created text message to an Internet Protocol address associated with the originating party (column 7, lines 31-34).

Regarding **claim(s) 2 and 10**, Brisebois discloses a method, wherein the step of communicating the pre-created text message comprises communicating the pre-created text message via an Internet Protocol communications network (column 7, lines 31-34).

Regarding **claim(s) 3 and 11**, Brisebois discloses a method, wherein the step of communicating the pre-created text message comprising wirelessly communicating the pre-created text message via a wireless communications network (column 7, lines 31-34).

Regarding **claim(s) 4**, Brisebois discloses a method, wherein the step of communicating the pre-created text message comprises wirelessly communicating the pre-created text message via a pager communications network (column 7, lines 31-34).

Regarding **claim(s) 5 and 12**, Brisebois discloses a method, further comprising receiving a telephone call intended to terminate at the receiving party (column 7, lines 26-29).

Regarding **claim(s) 8 and 15**, Brisebois discloses a method, further comprising communicating the pre-created text message to another destination (column 7, lines 31-34).

Regarding **claim(s) 16**, Brisebois discloses a method according, wherein the step of selecting one of the pre-coated text messages comprises selecting one pre-created text message having a common association between the originating party and an additional condition, the additional condition specified by the receiving party (column 6, lines 11-22).

Regarding **claim(s) 17**, Brisebois discloses a method, wherein the additional condition comprises a time of a day that the call is received (column 5, lines 13-20).

Regarding **claim(s) 18**, Brisebois discloses a method, wherein the additional condition comprises entries in an electronic calendar (column 5, lines 13-20).

Regarding **claim(s) 19**, Brisebois discloses a method, wherein the additional condition comprises presence information (column 5, lines 21-31).

Regarding **claim(s) 20**, Brisebois discloses a method, wherein the additional condition is based on a search of another database (column 6, lines 11-22).

### ***Response to Arguments***

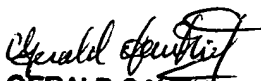
3. Applicant's arguments with respect to **claim(s) 1-5, 8-12 and 15-22** have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
**GERALD GAUTHIER**  
**PATENT EXAMINER**

Gerald Gauthier  
Examiner  
Art Unit 2614

GG  
July 18, 2006